

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Ashley A. Parry, Rosalina M. Naida,
Monica F. Leone, and Maria E. Nagle,
Individually, and on Behalf of All Others
Similarly Situated,

Plaintiffs,

vs.

Westlake Bistro Group, Inc., an Ohio
Corporation, West 6th St. Partners, Inc.,
an Ohio Corporation, Thomas Culkar,
Molly Culkar, and Joseph Hanna,

Defendants.

No. 1:15-cv-00114-SO

(Assigned to the Honorable Solomon
Oliver, Jr.)

**SUPPLEMENT TO PLAINTIFFS'
MOTION TO SHOW CAUSE AND
MOTION FOR ATTORNEY FEES**

**MOTION TO ADOPT SETTLEMENT
AGREEMENT UNDER SEAL**

Plaintiffs filed their Motion to Show Cause and Motion for Attorney fees on November 2, 2017. (Doc. #70). Plaintiffs' Motions allege that Defendant, Thomas Culkar, has failed to make any installment payments as mandated by the parties' settlement agreement. (See Doc. #65). On November 28, 2017 the Court held a telephonic attorney conference. As a result of that conference, the Court has asked Plaintiffs to supplement their Motions with authority indicating that the Court has authority to hold Defendant Culkar in contempt for his failure to abide by the terms of the settlement agreement.

Also during the attorney conference, Counsel for Defendant Culkar objected that the parties' settlement agreement has not been made part of a court order which Defendant Culkar could be found in contempt of. Plaintiffs resolve both issues herein.

1 On August 23, 2017 the Plaintiffs entered into a Settlement Agreement with
2 Defendant Culkar in resolution of a claims pending against Defendant Culkar in
3 exchange for installment monetary payments. The Settlement Agreement, drafted by
4 Defendant Culkar's Counsel, further contains a strict confidentiality clause. On
5 August 24, 2017, the parties filed a stipulation of dismissal with the Court which
6 provides:
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9 The Plaintiffs and Defendant Thomas Culkar have reached a settlement
10 agreement of all pending claims against Defendant Thomas Culkar. **The**
11 **terms of said agreement are to remain confidential**, other than that the
12 parties have agreed that any court costs exceeding Plaintiffs' initial filing
13 fee shall be split equally between the parties. As such, all parties jointly
14 notify the Court of the dismissal of this matter pursuant to FRCP
15 41(a)(1)(A)(ii). The dismissal shall be with prejudice except that **the Court**
16 **shall retain jurisdiction to enforce the terms of the parties' settlement**
17 **agreement.** (Doc. #65)(emphasis added).

18 In other words, the Settlement Agreement was not submitted for Court
19 approval in order preserve the very confidentiality that Defendant Culkar requested.
20 Defendant Culkar now seeks to exploit his confidentiality request into immunity from
21 the bargain the parties already have struck. Plaintiffs cannot, without a court order,
22 file the confidential Settlement Agreement without violating the Settlement
23 Agreement themselves. Local Rule 5.2 provides that the Settlement Agreement cannot
24 be filed under seal, without an order from the Court permitting the Settlement
25 Agreement to be filed under seal. As such, Plaintiffs move the Court to allow them to
26 file the Settlement Agreement under seal and further for an order adopting the
27 Settlement Agreement once it has been filed under seal.

1 Regarding the Courts authority to hold Defendant Culkar in contempt for his
2 blatant disregard for the terms of the Settlement Agreement, the Court has already
3 reserved jurisdiction to enforce the terms of the Settlement Agreement, and courts
4 commonly utilize contempt proceedings to enforce such settlement agreements. *E.g.*
5 *Gashco v. Global Fitness Holdings, LLC*, Case No. 2:11-cv-436 (S.D. Ohio, May, 19
6 2017)(attached hereto as Exhibit "A")(noting that plaintiffs were likely to prevail on a
7 motion to hold defendants in contempt for violation of the parties' settlement
8 agreement)(internal citations regarding civil contempt omitted).

11 RESPECTFULLY SUBMITTED this 13th day of December, 2017.

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Attorneys for Plaintiff

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Certificate of Service

I certify that on this 13th day of December 2017, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF upon all necessary parties.

/s/James L. Simon